Roxby cum Risby Parish Council

DISCIPLINARY POLICY AND PROCEDURE

1.0 Policy and scope

1.1 This policy applies to all employees of the Council.

2.0 Policy and purpose

2.1 This policy complies with the 2015 ACaS Code of Practice and will be applied fairly, consistently in accordance with the Equality Act 2010.

2.2 The Council is committed to treating all staff fairly and equitably and to helping employees to perform effectively. However, there will be occasions when it may be necessary to invoke disciplinary procedures. Should the need arise, the employee will be given the opportunity to improve throughout the stages of the procedure.

2.3 The Council recognises that misconduct and unsatisfactory work performances are different issues. The Disciplinary Procedure will also be applied to work performance issues where performance management has proved ineffective.

2.4 When work falls below an acceptable standard, help will be given to the employee to improve. If standards of work continue to fall and there is a necessity for action, it will automatically begin with a pre-disciplinary informal discussion. Similarly, when an employee's behaviour is potentially inappropriate and unacceptable, it will mean the initiation of a pre-disciplinary informal discussion or the disciplinary procedure, depending on the severity of the situation.

2.5 If disciplinary action should become necessary, each case will be treated consistently and fairly, and the disciplinary procedure will be observed at all steps. The employee will be given the opportunity to provide their version of events and any extenuating circumstances will be considered. An employee's rights will be upheld at all times, and employees will have the right to:

- know the case against him/her
- reply
- due consideration of their case
- be accompanied
- appeal.

2.6 The Council is required to use its best efforts to:

- provide feedback at early steps to encourage and support employees to improve
- ensure that all cases are thoroughly investigated
- avoid any discrimination
- prepare carefully and be consistent
- keep adequate records
- adhere to this procedure.

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2.7 Where an allegation is made against an employee, the Council will conduct a thorough investigation before any disciplinary meeting is held. This is a fact-finding process and may necessitate the gathering of detailed information as well as the carrying out of formal interviews and taking written statements.

A proper investigation is an integral part of the process and, where an allegation of gross misconduct is involved, may require employees to be suspended on contractual pay whilst this is carried out. Suspension on pay is not considered to be a sanction taken under the disciplinary procedure. It is there to ensure that issues are dealt with in a fair and reasonable manner, and adequate protection is given to all employees. Suspension will not normally last for more than 28 days and the employee will be given a letter explaining the suspension arrangement, including the requirement not to attend work but be available for investigatory meetings.

An investigation is ideally carried out by an independent person or by a councillor who will not be involved in the disciplinary hearing or any appeal.

The investigator will prepare a written report of their findings within 7 days and any recommendations they may have as to the substance of the allegation made against the employee. This will be limited to:

- there is no case to answer and it is recommended that the allegation is dismissed
- the matter is not serious and can be dealt with informally
- there is a case to answer before a disciplinary hearing.

2.8 All disciplinary meetings will be heard by the Personnel Committee of the Council, or a specially appointed committee of the Council with written terms of reference.

2.9 Audio or visual recordings of disciplinary meetings are not permitted.

2.10 Employees will be informed in writing about the nature of the complaint made against them. They will be provided with copies of any evidence and relevant witness statements in advance of the disciplinary hearing.

2.11 Employees may be accompanied or represented by a companion, i.e. a work colleague, a trade union representative, or a trade union official at any investigatory meeting, any disciplinary hearing or at an appeal, or a friend or family member. The companion cannot answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee from explaining their case.

2.12 Employees will be given reasonable notice of any meetings to be held and of the disciplinary hearing itself. Failure to attend any such meetings may result in the procedure being implemented and a decision made in the employee's absence. However, if an employee's companion cannot attend a meeting, the employee can request a postponement and propose an alternative date that is within five working days of the originally proposed date.

2.13 If an employee is the subject of the Council's disciplinary procedure raises a grievance, the grievance will normally be heard after the completion of the disciplinary procedure.

2.14 Disciplinary action can include a written warning, a final written warning or dismissal.

2.15 An employee will only be dismissed without notice where gross misconduct has been proven.

2.16 The Council may consider mediation at any stage of the disciplinary procedure if appropriate. The consent of affected parties has first been obtained.

2.17 Misconduct can include (this is not an exhaustive list):

- unauthorised absence
- poor timekeeping
- misuse of council resources (e.g. telephone, email, internet)
- inappropriate behaviour
- refusal to follow reasonable and lawful instructions
- breach of health and safety rules/

2.18 The following offences will be viewed by the Council as gross misconduct. This list is not exhaustive:

- unauthorised use of the Council's assets and equipment
- intentional discriminatory behaviour, sexual harassment, harassment in relation to any other of the protected characteristics set out in the Equality Act 2010, bullying or violent, dangerous or intimidatory conduct
- serious breach of rules, policies or procedures, especially those designed to ensure safe operation
- divulging or misusing confidential information
- theft of fraud
- possession or consumption of alcohol or drugs whilst on the premises, or intoxication by reason of alcohol or drugs, which could affect work performance in any way or have an impact on other employees
- unauthorised or inappropriate use of e-mail, Internet and/or computer systems
- falsification of any Council records including reports, accounts, expenses claims or self-certification forms
- bringing unauthorised person(s) onto Council premises
- violent behaviour
- gross negligence
- gross insubordination
- disclosure of confidential information.

END OF POLICY

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Roxby cum Risby Parish Council

DISCPLINARY HEARING PROCEDURE

Introduction

In order to provide an effective and timely resolution of allegation made against the employee, the following procedure will be followed to ensure all rights are protected and an appropriate outcome is arrived at.

Reasonable adjustments will be made to the procedure for disabled employees. Any employee who has trouble with the procedure for any reason should seek assistance from the Chair of the Personnel Committee.

Disciplinary Panel

The Disciplinary Panel will be made up of no less than 3 members of the Personnel Committee or 3 members appointed by the Council for the purposes. Where a committee is specifically created, it shall be provided with terms of reference by the Council.

No councillor directly involved in the allegation will be a member of the panel.

The committee will receive the investigator's report and decide on the next step. If the decision is to throw out the allegation, the employee will be informed in writing. If the decision is to suggest mediation, both the employee and the person raising the allegation will be asked to agree to this. If the decision is to move forward to the next stage of the procedure, the employee will be notified.

Notification of disciplinary hearing

The Disciplinary Hearing Panel will provide the employee with no less than 7 days written notice of the Hearing. The written notification will include the following:

- the names of its Chair and other members
- the date, time and place for the meeting
- details of the alleged misconduct, its possible consequences and the employee's right to be accompanied by a workplace colleague, a trade union representative or a trade union official; or a friend or family member if the Council's policy so allows
- a copy of the information provided to the committee and a copy of the investigator's report
- the Council's disciplinary policy
- confirmation that, if necessary, witnesses may attend (or submit witness statements) on the employee's behalf and that the employee should provide the names of his/her witnesses as soon as possible before the meeting
- confirmation that the employee will provide the Council with any supporting evidence they wish to rely on in advance of the meeting, usually with at least three days' notice
- an invitation for the employee to request any adjustments to be made for the hearing (for example where a person has a health condition).

The disciplinary hearing

The Disciplinary Hearing is a meeting of the Personnel Committee and a Meeting Notice must be published.

At the meeting:

- the Committee will resolve to exclude the press and public, with exception of those persons whose attendance is necessary for the Hearing to proceed, owing to the confidential nature of the business to be discussed
- the Chair will introduce the members of the Committee to the employee
- the Chair will set out the allegations and invite the investigator to present their findings
- the Chair will invite the employee to present their case
- the employee (or their companion) will set out the employee's case and present any evidence, including the calling of witnesses or the presenting of witness statements
- any member of the Committee may ask questions of the investigator and of any witness
- the employee may ask any questions of the investigator or the witnesses
- the employee (or companion) will have the opportunity to sum up the case

A disciplinary hearing may be adjourned to allow matters that were raised during the meeting to be investigated by the Committee.

The Chair will provide the employee with the sub-committee's decision, in writing, as quickly as possible and no longer than within five working days of the meeting. The letter will notify the employee of the action, if any, that the Council will take and of the employee's right to appeal.

Disciplinary action

First Written Warning**:**

A first written warning will be applied where the matters of concern are substantiated. A record of the first written warning will be given to the employee and a copy will be retained on the personnel file for 12 months unless there is repetition of misconduct within this period. The employee will be informed of their right of appeal, the improvement required and if this does not materialise, or there is further misconduct, the procedure will escalate to step three. This can happen before the end of the first written warning period.

Final written warning:

A final written warning will be applied where the matters of concern are substantiated. A record of the final written warning will be given to the employee and a copy will be retained on the personnel file for 12 months unless there is repetition of misconduct within this period. The employee will be informed of the improvement required and if this does not materialise, or there is further misconduct, the procedure will escalate to step four. This can happen before the end of the final written warning period. The employee will be informed of their right of appeal and that further misconduct within the specified period may result in their dismissal.

Dismissal or action short of dismissal:

An employee will normally be dismissed if they have failed to improve to the required standard via the previous steps. In the event of a gross misconduct allegation, the Council may apply the sanction of dismissal for first offence. The employee will be issued with a letter setting out the reasons for dismissal and other arrangements including in relation to their final pay and their right to appeal.

Alternatively, the Council may decide that suspension without pay, transfer or demotion are appropriate sanctions.

Appeal:

An employee may submit a written appeal to the Council against the decision of the Disciplinary Hearing. Any disciplinary action applied by the Hearing remains in place until the Appeal is heard. An appeal must be received by the Council within 14 days of the employee receiving the Committee's decision and must specify the grounds of appeal.

Appeals may be raised on several grounds, e.g.:

- a failure by the Council to follow its disciplinary policy
- the decision was not supported by the evidence
- the sanction applied is too severe in the circumstances
- new evidence has come to light.

The appeal will be heard by the remaining members of the Council, or by a panel of no less than three members of the Council, none of whom were involved in any way with the original decision.

If there are insufficient members of the Council to form an Appeal Panel, advice can be sought from ERNLLCA.

The employee will be notified, in writing, usually within 7 days of receipt of the appeal. The employee will be notified of the time, date and place of the appeal meeting within 14 days of the Council's receipt of the appeal. The employee will be advised that they may be accompanied by a workplace colleague, a trade union representative or a trade union official; or a friend or family member if the Council's policy so allows.

Where an employee wishes to introduce evidence, or witnesses, which provide fresh insight into the grievance, that written evidence and the names of any witnesses to be called (or witness statements produced) should be presented to the Council no less than three days before the appeal meeting.

<u>Appeal Meeting</u>

The Appeal is a meeting of the Council and a Meeting Notice must be published. At the grievance meeting:

- the Committee will resolve to exclude the press and public, with exception of those persons whose attendance is necessary for the Hearing to proceed, owing to the confidential nature of the business to be discussed
- the Chair will introduce the panel members to the employee
- the Chair will explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the decision of the staffing sub-committee
- the Chair will explain the action that the appeal panel may take.
- the employee (or companion) will be asked to explain the grounds of appeal
- the Chair and members of the Committee may ask questions of the member of staff
- new evidence or witnesses or witness statements may be introduced by the member of staff
- the Chair and members of the appeal panel may ask questions about the new evidence and of the new witnesses
- the employee (or companion) will have the opportunity to sum up the case
- the Chair will inform the employee that they will receive the decision and the panel's reasons, in writing, within five working days of the appeal meeting.

The appeal panel may decide to uphold the decision of the Personnel Committee or substitute its own decision.

The decision of the appeal panel is final.

END OF PROCEDURE